

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ST. ANN'S SCHOOL,

EFC CASE

Plaintiff,

-against-

MICHAEL FISHMAN, PRESIDENT, LOCAL 32BJ,  
SERVICE EMPLOYEES INTERNATIONAL UNION,

**NOTICE OF REMOVAL  
OF A CIVIL ACTION**

07 CIV \_\_\_\_\_

Defendants.

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Defendants Michael Fishman, President and Local 32BJ, Service Employees International Union (collectively, "Union" or "Local 32BJ"), by its attorneys, submits this petition for removal pursuant to 28 U.S.C. §§ 1441 and 1446.

1. Plaintiff St. Ann's School ("St. Ann's" or "Employer") commenced an action in the Supreme Court of the State of New York, County of New York entitled *St. Ann's School, Petitioner, against Michael Fishman, President, Local 32BJ, Service Employees International Union, Respondents*, bearing Index No. 108221/07.
2. Plaintiff's Notice of Petition to Vacate an Arbitration Award with attached Petition to Vacate an Arbitration Award, along with Affidavit in Support of Petition to Vacate an Arbitration Award, Affirmation in Support of Petition to Vacate an Arbitration Award, and Memorandum of Law in Support of Petition to Vacate an Arbitration Award, were served on defendants on June 13, 2007. Copies of the same are annexed as **Exhibit 1, Exhibit 2, Exhibit 3, and Exhibit 4**, respectively.
3. The Union is a labor organization within section 2(5) of the Labor Management Relations Act ("Act"), 29 U.S.C. § 152(5), in that it represents approximately 85,000 employees

“in an industry affecting commerce” within the meaning of section 301(a) of the Act, 29 U.S.C. § 185(a). The Union’s headquarters are at 101 Avenue of the Americas, New York, New York 10013.

4. The Union and St. Ann’s are parties to the Apartment House Agreement 2006 (“Agreement”), with effective dates April 21, 2006 through April 20, 2010. The Agreement provides for arbitration of disputes arising under the Agreement, and includes provisions relating to the service of notice in connection therewith. A copy of the Agreement is annexed to plaintiff’s Affidavit in Support of Petition to Vacate an Arbitration Award as Exhibit B.

5. Pursuant to the Agreement, the Union notified the Employer of its intent to arbitrate the Employer’s discharge of Anthony Rodriguez, in violation of the Agreement’s just cause provision.

6. The arbitration hearing scheduled for January 20 and then March 22, 2007 was adjourned to April 11, 2007, on which date a hearing was held and the record closed. Thereafter, the arbitrator issued an award reinstating Mr. Rodriguez and directing St. Ann’s to pay him back pay.

7. St. Ann’s has refused to comply with the award, and instead instituted this action to vacate the award.

8. The Agreement is a “contract[] between an employer and a labor organization representing employees in an industry affecting commerce.” 29 U.S.C. § 185(a).

9. This action, therefore, is a civil action over which this Court has jurisdiction, arising under section 301(a) of the Act, 29 U.S.C. § 185(a), which in material part provides:

Suits for violation of contracts between an employer and an organization representing employees in an industry affecting commerce as defined in this Act . . . may be

brought in any district court of the United States having jurisdiction of the parties, without respect to the amount of controversy or without regard to citizenship of the parties.

10. Accordingly, this action may be removed to this Court pursuant to 28 U.S.C. §§ 1441 and 1446.

11. Defendants have not served an answer, made motions, or made any appearance or argument in the state court action.

12. This Notice of Removal is filed within 30 days after receipt by defendants of the papers annexed as Exhibits hereto, and before any proceedings thereon were held in the state court action.

WHEREFORE, defendants respectfully request that the state court action be removed from the New York State Supreme Court, County of New York to this Court.

Dated: New York, New York  
June 14, 2007

Respectfully submitted,  
Office of the General Counsel

By: /S/  
Elizabeth A. Baker (EB9273)

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